

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)	
)	
Petitioner,)	
)	
v.)	No. 14-1646RE
)	
)	
BRIAN S. KRAMER)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

On or about March 11, 2015, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Brian S. Kramer*, No. 14-1646RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Brian S. Kramer's real estate broker officer license (license no. 1999021191) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2(15), (16), and (19), RSMo.¹

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the properly pled complaint and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on June 3, 2015, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. All of the members of the Commission were present throughout

¹ All statutory references are to the Revised Statutes of Missouri 2000, as amended, unless otherwise indicated.

the meeting. Further, each member of this Commission has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Nichole Bock. Respondent having received proper notice and opportunity to appear did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Brian S. Kramer*, Case No. 14-1646RE, issued March 11, 2015, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent failed to appear in person or through legal counsel at the hearing before the Commission

4. This Commission licensed Respondent Brian S. Kramer as a real estate broker officer, license number 1999021191. Respondent's broker officer license was not current at all times relevant to this proceeding. On January 9, 2014, Respondent's broker officer license was

suspended due to Section 324.010 RSMo. and on June 30, 2014 Respondent's broker officer license expired due to failure to renew.

II.

CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the properly pled complaint and Default Decision issued by the Administrative Hearing Commission dated March 11, 2015, in *Missouri Real Estate Commission v. Brian S. Kramer*, Case No. 14-1646RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated March 11, 2015, Respondent's real estate broker officer license, number 1999021191, is subject to disciplinary action by the Commission pursuant to § 339.100.2(15), (16), and (19), RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

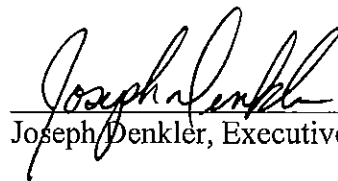
Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate broker officer license of Brian S. Kramer (license no. 1999021191) is hereby **REVOKED**. All evidence of Respondent's licensure shall be immediately returned to the Commission. All evidence of Respondent's company B Kramer &

Associates Realty Inc.'s licensure shall be immediately returned to the Commission along with a Closing of a Real Estate Brokerage/Sole Proprietorship form.

The Commission will maintain this Order as an open, public record of the Commission as provided in Chapters 339, 610 and 324, RSMo.

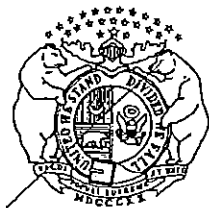
SO ORDERED, EFFECTIVE THIS 8th DAY OF June, 2015.

MISSOURI REAL ESTATE COMMISSION

A handwritten signature in cursive script, appearing to read "Joseph Denkler", is written over a horizontal line.

Joseph Denkler, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION,)

Petitioner,)

vs.)

No. 14-1646 RE)

BRIAN S. KRAMER,)

Respondent.)

DEFAULT DECISION

On October 15, 2014, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was served with a copy of the complaint and our notice of complaint/notice of hearing by personal service on December 19, 2014.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo (Supp. 2013), we enter a default decision against Respondent establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on March 11, 2015.

Nicole Colbert-Botchway

NICOLE COLBERT-BOTCHWAY
Commissioner

FILED

OCT 15 2014

**BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI REAL ESTATE COMMISSION)
3605 Missouri Boulevard)
P.O. Box 1339)
Jefferson City, MO 65102,)

Petitioner,)

v.)

BRIAN S. KRAMER)
1921 Lynch Street)
St. Louis, MO 63118)
Telephone: (314)772-3111)

Respondent.)

Case No. 14-1646 RE

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through its counsel, the Attorney General of the State of Missouri, states the following for its cause of action against Respondent, Brian S. Kramer:

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo (Cum. Supp. 2013), for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.205 and §§ 339.710 to 339.855, RSMo (as amended), relating to real estate salespersons and brokers.

2. Respondent, Brian S. Kramer, holds a license as a real estate broker officer, license no. 1999021191 ("Kramer's license"). Kramer's license

was current and active until it was suspended on January 9, 2014. Kramer's license expired on June 30, 2014, and has not been renewed.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100.2, RSMo (Cum. Supp. 2013).

4. On January 23, 2014, the MREC sent a letter to Kramer's last registered address with the MREC.

5. The January 23, 2014 letter informed Kramer that the MREC had been notified by the Missouri Department of Revenue ("DOR") that Kramer had failed to adequately respond to DOR's notice requiring him to file and/or pay Missouri taxes. The January 23, 2014 letter also notified Kramer that his real estate broker officer license was suspended by operation of law effective January 9, 2014.

6. Section 324.010, RSMo, regarding suspension of professional licenses due to failure to file or pay taxes, states:

All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to sections 209.319 to 209.339, sections 214.270 to 214.516, sections 256.010 to 256.453, section 375.014, sections 436.005 to 436.071, and chapter 317 and chapters 324 to 346 shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such

licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. The director of revenue shall, within ten business days of notification to the governmental entity issuing the professional license that the delinquency has been remedied or arrangements have been made to remedy such delinquency, send written notification to the licensee that the delinquency has been remedied. Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.

7. The January 23, 2014 letter from the MREC informed Kramer that he was required to return his broker officer license to the MREC within ten days of the date of the correspondence, and also to return the license of his corporation and all other licensees and complete an affidavit for closing a real estate firm if a new designated broker was not put in place.

8. On February 26, 2014, the MREC sent Kramer an email also notifying him of the suspension and renewing its request that he return the licenses and other requested documents.

9. As of the filing of this Complaint, Kramer has not responded in writing to the MREC's written requests or returned the licenses or other requested documents to the MREC.

10. Because Kramer failed to respond in writing to the MREC's written requests, he violated 20 CSR 2250-8.170(1), which states:

(1) Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

11. Because Kramer failed to return his license and the other licenses held by him to the MREC, he violated 20 CSR 2250-8.155(2)(A)(3), which states:

(2) Revocation/Suspension.

(A) Individual Broker or Corporation, Partnership, or Association. Upon the revocation or suspension of an individual broker, corporation, partnership, or association, the individual broker or designated broker shall—

...

3. Notify all licensees associated with the brokerage of the revocation/suspension and return all licenses held by the broker to the commission[.]

12. Section 339.100, RSMo, which provides the reasons that the MREC may file a complaint with the Administrative Hearing Commission seeking to discipline a licensee, states in pertinent part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any

person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

...

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860[.]

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040.

...

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

13. Section 339.040.1, RSMo, which deals with the qualifications of real estate licensees, states in part:

1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

...

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

14. Kramer's violation of 20 CSR 2250-8.155(2)(A)(3) and 20 CSR 2250-8.170(1) provides cause to discipline Kramer's license pursuant to § 339.100.2(15), RSMo (Cum. Supp. 2013).

15. Kramer's failure to respond to the MREC's written requests, and to return the licenses and other documents requested by the MREC, is evidence that he is not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public. Therefore, there would be grounds for the MREC to deny a license to Kramer under § 339.040.1, RSMo (Cum. Supp. 2013), and there is cause to discipline Kramer's license under § 339.100.2(16), RSMo (Cum. Supp. 2013).

16. Kramer's conduct, as alleged in this Complaint, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith, incompetence, misconduct, and/or gross negligence, providing cause to discipline Kramer's license under § 339.100.2(19), RSMo (Cum Supp. 2013).

WHEREFORE, Petitioner prays the Administrative Hearing Commission to conduct a hearing in this case pursuant to Chapter 621, RSMo, and thereafter issue findings of fact and conclusions of law that the Petitioner may discipline Respondent Kramer's real estate broker officer

license under Chapter 339, RSMo, and the regulations promulgated
thereunder.

Respectfully submitted,

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Attorney General



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